

ARTHUR W. CURLEY, BAR NO. 60902
 BERNADETTE BANTLY, BAR NO. 124659
 MEGHAN E. OLIVERI, BAR NO. 236107
 BRADLEY, CURLEY, ASIANO,
 BARRABEE & GALE, P.C.
 1100 Larkspur Landing Circle, Suite 200
 Larkspur, California 94939
 Telephone: (415) 464-8888
 Facsimile: (415) 464-8887
 Email: bbantly@professionals-law.com

Attorneys for Defendant
 BHARAT RAKSHAK, DDS, an individual
 (erroneously sued herein as Bahrar Rakshak)

MATTHEW MORBELLO, SBN 190043
 TEAGUE P. PATERSON, SBN 226659
 BEESON, TAYER & BODINE, APC
 1404 Franklin Street, 5th Floor
 Oakland, Ca 94612-3208
 Telephone: (510) 625-9700
 Facsimile: (510) 625-8275
 Email: mmorbello@beesontayer.com
 tpaterson@beesontayer.com

Attorneys for Plaintiffs
 Trustees of the Tri-Counties Welfare Trust Fund
 and Professional Group Administrators, Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

TRUSTEES OF THE TRI-COUNTIES
 WELFARE TRUST FUND and
 PROFESSIONAL GROUP
 ADMINISTRATORS, INC., a corporation,

Plaintiffs,

v.

BAHRAT RAKSHAK, DDS, a professional
 dental corporation, d/b/a RODEO DENTAL
 GROUP; LYNNE SIMMS, D.D.S., a
 professional dental corporation, d/b/a
 RODEO DENTAL GROUP; JESSICA
 HUANTE, individually; BAHRAT
 RAKSHAK, individually; LYNNE SIMMS,
 individually; and DOES 1 through 15,
 inclusive,

Defendants.

No. C-07-06332 RMW

**JOINT CASE MANAGEMENT
 STATEMENT AND [PROPOSED] ORDER**

Hearing Date: April 18, 2008
 Hearing Time: 10:30 a.m.
 Courtroom: Courtroom 6, 4th Floor
 Judge: Hon. Ronald M. Whyte

The parties to the above-entitled action jointly submit this Case Management Statement and [Proposed] Order and request the Court to adopt it as its Case Management Order in this case.

DESCRIPTION OF THE CASE

1. A brief description of the events underlying the action: Rodeo Dental Group ("Rodeo Dental") and Teamsters Local 890 (not a party to this action) are parties to a Collective Bargaining Agreement which requires Rodeo Dental to make contributions to Plaintiff Tri-Counties Welfare Trust ("Tri-Counties") and Tri-Counties to provide health and welfare benefits to eligible employees performing work covered under the collective bargaining agreement. Jessica (Huante) Diaz ("Ms. Diaz") began her employment with Rodeo Dental in January 2005. On or about October 3, 2005, Ms. Diaz was admitted to Good Samaritan Hospital ("GS Hospital") and gave birth to a premature baby girl. Plaintiffs allege that on the same day Rodeo Dental remitted to Tri-Counties contributions for coverage for Ms. Diaz. Plaintiffs contend Ms. Diaz had ceased working for Defendants and was no longer entitled or eligible for coverage under the plan, which Defendants deny. Ms. Diaz gave GS Hospital a health care insurance card naming Tri-Counties as her insurer. Defendants allege GS Hospital independently confirmed Ms. Diaz's insurance coverage, which Plaintiffs deny. Ms. Diaz and/or her daughter remained hospitalized until February 2006. Plaintiffs have declined coverage of Ms. Diaz's medical expenses on the basis that she was not eligible for coverage and that Rodeo Dental had failed to comply with the Collective Bargaining Agreement with respect to remitting contributions to Tri-Counties for coverage of its employees. Thereafter GS Hospital commenced an action in Santa Clara County Superior Court against Tri-Counties, Rodeo Dental and others seeking payment for the services provided to Ms. Diaz and her child. Concurrently, Tri-Counties commenced the instant action. Defendants claim Ms. Diaz was eligible for benefits under the terms of the Collective Bargaining Agreement, that there was no fraud and that Plaintiffs continually confirmed Ms. Diaz's eligibility with GS Hospital throughout her and her daughter's care and treatment.

2. The principal factual issues which the parties dispute:

(1) Whether Jessica (Huante) Diaz was eligible for benefits under the Collective

1 Bargaining Agreement and the Tri-Counties plan,

2 (2) Whether the Parties complied with the terms of the Collective Bargaining
3 Agreement with respect to enrollment of Ms. Diaz, and

4 (3) Whether Rodeo Dental and its principals fraudulently enrolled, as alleged by
5 Plaintiffs, Ms. Diaz in Tri-Counties plan notwithstanding the alleged lack of eligibility.

6 **3. The principal legal issues which the parties dispute:**

7 (1) Whether Rodeo Dental and its principals are liable for damages incurred as a
8 result of the suit initiated by GS Hospital in Santa Clara County Superior Court,

9 (2) The effect, if any, of the Collective Bargaining Agreement on the parties'
10 respective liabilities, if any,

11 (3) Whether the LMRA or ERISA preempt any claims or defenses asserted in this
12 action, and

13 (4) Whether service of process was effective on Jessica (Huante) Diaz.

14 **4. The parties which have not been served and the reasons:** Lynne Simms, DDS,
15 PC and Lynne Simms, DDS (former owner of Rodeo Dental Group) due to inability to locate him.
16 Defendant Bharat Rakshak contends that Jessica (Huante) Diaz has not been properly served,
17 Plaintiffs dispute this contention.

18 **5. The additional parties which the below-specified parties intend to join and the**
19 **intended time frame for such joinder:** Defendant Bharat Rakshak's motion to consolidate related
20 Santa Clara Superior Court case, *Good Samaritan Hospital v. Tri-Counties Welfare Trust Fund*,
21 *Pacific Health Alliance and Rodeo Dental Group*, Case No. 107CV09553 (see filed Notice of
22 Pendency of Other Action), within 60 days.

23 **6. The following parties consent to assignment of this case to a United State**
24 **Magistrate Judge for [court or jury] trial:** The Parties do not consent to assignment to a
25 magistrate judge.

26 **ALTERNATIVE DISPUTE RESOLUTION**

27 **7. The parties have filed a Stipulation and Proposed Order Selecting an ADR**
28 **Process:** Mediation.

8. Please indicate any other information regarding ADR process or deadline.

Parties estimate mediation to take place after depositions. Mediation should be completed in approximately September 2008.

DISCLOSURES

9. **The parties certify that they have made the following disclosures:** Parties conducted a Meet and Confer telephonic conference call on March 27, 2008 pursuant to F.Rule.Civ.Pro. 26(f). Parties have served their initial disclosures pursuant to Rule 26(f).

DISCOVERY

10. **The parties agree to the following discovery plan:** Discovery has commenced in the related Santa Clara County Superior Court case and Parties have stipulated to use that discovery in this case. See Attachment A for the above mentioned Stipulation.

a. PREVIOUSLY SCHEDULED DISCOVERY

WRITTEN:

Request for Production of Documents to Plaintiff Tri-Counties Welfare Trust Fund
due April 23, 2008.

Form Interrogatories and Request for Production of Documents to Defendant Rodeo Dental Group due May 1, 2008.

DEPOSITIONS:

May 5, 2008: Fritz Conle, Representative of Teamsters Local 890.

May 27, 2008: Janet Dominquez and Darrell Tillmanshoffer, auditors of Lindquist, LLP and Steve García, Trustee of Tri-Counties Welfare Trust Fund.

June 20, 2008: Dr. Bharat Rakshak, DDS.

b. ANTICIPATED FURTHER DISCOVERY:

Form Interrogatories, Requests for Admission and Special Interrogatories to Plaintiff.

Requests for Admission and Special Interrogatories to Defendants.

Deposition of Jessica (Huante) Diaz.

Deposition of Lynn Simms, DDS.

Depositions of Rodeo Dental employee witnesses.

Depositions of Third-Party Good Samaritan Hospital.

TRIAL SCHEDULE

11. The parties request a trial date as follows: February 2009.

12. The parties expect that the trial will last for the following number of days: 3-5 days.

Dated:

4/11/08

BEESON, TAYER & BODINE, APC

TEAGUE PATERSON, ESQ.
Attorney for the Plaintiffs

Dated:

4/11/08

BRADLEY, CURLEY, ASIANO,
BARRABEE & GALE, P.C.

BERNADETTE BANTLY, ESQ.
Attorney for Defendant Bharat Rakshak

[PROPOSED] CASE MANAGEMENT ORDER

The Case Management Statement and [Proposed] Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders:

[The Court may wish to make additional orders, such as:

i. Referral of the parties to court or private ADR process;

ii. Schedule a further Case Management Conference;

iii. Schedule the time and content of supplemental disclosures;

iv. Specially set motions;

v. Impose limitations on disclosure or discovery;

vi. Set time for disclosures of identity, background and opinions of experts;

vii. Set deadlines for completing fact and expert discovery;

viii. Set time for parties to meet and confer regarding pretrial submissions;

ix. Set deadline for hearing motions directed to the merits of the case;

x. Set deadline for submission of pretrial material;

xi. Set date and time for pretrial conference;

xii. Set a date and time for trial.]

Dated:

HONORABLE RONALD M. WHYTE
United States District Judge

H:\Docs\TDIC\7356\Joint case management statement.FINAL.wpd

EXHIBIT A

1 ARTHUR W. CURLEY, BAR NO. 60902
BERNADETTE BANTLY, BAR NO. 124659
2 MEGHAN E. OLIVERI, BAR NO. 236107
BRADLEY, CURLEY, ASIANO,
3 BARRABEE & GALE, P.C.
1100 Larkspur Landing Circle, Suite 200
4 Larkspur, California 94939
Telephone: (415) 464-8888
5 Facsimile: (415) 464-8887

6 Attorneys for Defendant
BHARAT RAKSHAK, DDS
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 TRUSTEES OF THE TRI-COUNTIES
WELFARE TRUST FUND and
12 PROFESSIONAL GROUP
ADMINISTRATORS, INC., a corporation,
13

14 Plaintiffs,
15

16 v.
17

18 BAHARAT RAKSHAK, DDS, a
professional dental corporation, d/b/a
19 RODEO DENTAL GROUP; LYNNE
SIMMS, D.D.S., a professional dental
20 corporation, d/b/a RODEO DENTAL
GROUP; JESSICA HUANTE,
individually; BAHARAT RAKSHAK,
individually; LYNNE SIMMS,
individually; and DOES 1 through 15,
inclusive,
21

22 Defendants.

No. C-07-06332 RMW

STIPULATION AND [PROPOSED] ORDER
REGARDING DISCOVERY

23 For purposes of economy, efficiency and to minimize inconvenience to witnesses, IT IS
24 HEREBY STIPULATED AND AGREED by and between the parties hereto, by their respective
25 counsel, that any and all discovery, including but not limited to depositions, production of
26 documents, interrogatories, and requests for admissions, taken in the case: *Good Samaritan*
27 *Hospital LP, d/b/a Good Samaritan Hospital, a California limited partnership v. Tri-Counties*
28 *Health and Welfare Trust Fund, a health plan insurer; Pacific Health Alliance, Inc., a California*

corporation; Rodeo Dental Group, a California business and Does 1-50, inclusive, California Superior Court, Santa Clara County, Case No. 107CV095539, may be used for all purposes, subject to applicable evidentiary objections, in the above captioned federal action. Effective immediately, undersigned parties agree to provide notice and service of all discovery requests, responses to all parties in both cases.

Dated: April 1, 2008

BEESON TAYER & BODINE, APC

By: 

TEAGUE P. PATERSON
Matthew Morsello, Esq.
Attorneys for Plaintiff
TRUSTEES OF THE TRI-
COUNTIES WELFARE TRUST
FUND and PROFESSIONAL
GROUP ADMINISTRATORS, INC.
Attorneys for Defendant
TRI-COUNTIES HEALTH AND
WELFARE TRUST FUND

Dated: April 1, 2008

BRADLEY, CURLEY, ASIANO,
BARRABEE & GALE, P.C.

By: 

BERNADETTE BANTLY
Attorneys for Defendant
BHARAT RAKSHAK, DDS
Attorneys for Defendant
RODEO DENTAL GROUP

Re: *Good Samaritan Hospital v. Tr-Counties Health and Welfare Trust Fund, et al.*, Santa Clara County Superior Court Case No. 107CV095539:

Dated: April 1, 2008

HOOPER LUNDY & BOOKMAN, INC.

By: 

MICHAEL A. DUBIN
Glenn E. Solomon, Esq.
Attorneys for Plaintiff
GOOD SAMARITAN HOSPITAL
LP

Dated: April ____, 2008

WOLD LAW GROUP

By: _____

JAMES WOLD
Attorneys for Defendant
PACIFIC HEALTH ALLIANCE,
INC.

ORDER.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

HONORABLE RONALD M. WHYTE